

MINUTES OF MEETING  
BOARD OF DIRECTORS, ORANGE COUNTY WATER DISTRICT  
February 18, 2015, 5:30 p.m.

President Green called to order the February 18, 2015 regular meeting of the Orange County Water District Board of Directors at 5:30 p.m. in the Boardroom at the District office. Following the Pledge of Allegiance to the Flag, the Secretary called the roll and reported a quorum as follows.

Directors

Philip Anthony  
Denis Bilodeau (arrived at 5:50 p.m.)  
Shawn Dewane  
Jan Flory  
Cathy Green  
Dina Nguyen  
Roman Reyna  
Stephen Sheldon (arrived 5:40 p.m.)  
Harry Sidhu  
Roger Yoh (not present)

Staff

Michael Markus, General Manager  
Joel Kuperberg, General Counsel  
Janice Durant, District Secretary  
Gina Ayala, Bruce Dosier, Stephanie Dosier,  
Alicia Dunkin, Randy Fick, Mark Greening,  
Roy Herndon, Bill Hunt, Judy-Rae Karlsen,  
John Kennedy, Dave Mark, Diane Pinnick,  
Ben Smith, Eleanor Torres, Nira Yamachika,  
Lee Yoo

Others:

Doug Magione – IEBW  
Patrick Brenden – Huntington Beach Planning Commissioner  
John O’Neill – Garden Grove Planning Commissioner  
Peer Swan, Paul Weghorst – Irvine Ranch Water District  
John Earl – Surf City Voice  
Thom Coughran – Garden Grove resident  
Milt Dardis, Dave Hamilton – R4RD  
Carl Bennington – Santa Ana  
George Mason – resident  
Bob Kiley – Yorba Linda Water District  
Andy Kingman – Poseidon  
Kelly Rowe – water resources consultant  
Meredith Durant – Kennedy/Jenks Consultant  
Ed Connor – Connor Fletcher  
Nabil Sabu – City of Santa Ana  
Don Calkins, Mike Moore – City of Anaheim  
Bruce and Linda Whitaker – City of Fullerton  
Brian Raglan – City of Huntington Beach  
Lucy Dunn – OCBC  
Ken Vecchiarelli – Golden State Water Company  
Keith Lyon – Municipal Water District of Orange County  
Ranjiv Goonetilleke – Southern California Gas Company  
Lori Ann Robeson  
Amy Von Freymann - citizen  
Jerry Muszynisho – Huntington Beach resident  
Ray Hiemstra – Orange County Coastkeeper  
Betsy Eglash – Brady  
Paul Shoenberger – Mesa Water District

ITEMS RECEIVED TOO LATE TO BE AGENDIZED

President Green advised that the District was just notified today that the City of Santa Ana appointed Roman Reyna to replace Vincent Sarmiento on the OCWD Board. The following action was then taken adding this item to tonight’s Agenda. Upon motion by Director Anthony, seconded by Director Dewane, the following resolution was adopted [6-0].

RESOLUTION NO. 15-2-17  
DETERMINING NEED TO ADD ITEM RECEIVED TOO LATE TO BE AGENDIZED TO  
TONIGHT’S AGENDA: APPOINTMENT OF ROMAN REYNA TO OCWD BOARD

WHEREAS, pursuant to Government Code Section 54954.2, the District posted the Agenda for its February 18, 2015 Board meeting at least 72 hours prior to the meeting, *to wit*, on February 13, 2015; and

WHEREAS, after posting of such Agenda, the Board was apprised of the appointment of Roman Reyna to the OCWD to represent the City of Santa Ana;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby determine the need to take immediate action to consider the within described matters during tonight’s meeting.

Ayes: Anthony, Dewane, Flory, Green, Nguyen, Sidhu  
Vacancy: Division 8  
Absent: Bilodeau, Sheldon, Yoh

SWEARING IN CEREMONY FOR NEW DIVISION 8 DIRECTOR ROMAN REYNA

The District Secretary administered the oath of office to newly appointed Director Roman Reyna and the following action was taken.

MOTION NO. 15-28  
DECLARING ROMAN REYNA DULY APPOINTED

Upon motion duly made, seconded and carried [7-0], Roman Reyna is declared a duly appointed member of the OCWD Board representing Division 8 (City of Santa Ana) for the remainder of the four-year term expiring December 2, 2016.

Ayes: Anthony, Dewane, Flory, Green, Nguyen, Reyna, Sidhu  
Absent: Bilodeau, Sheldon, Yoh

Director Sheldon arrived at 5:40 p.m. during Mr. Earl’s comments.

VISITOR PARTICIPATION

Surf City Voice representative John Earl requested that the Board hold its Committee meetings in the Boardroom as Conference C-2 is small and overcrowded.

CONSENT CALENDAR

The Consent Calendar was then approved upon motion by Director Anthony, seconded by Director Flory and carried [8-0] as follows.

Ayes: Anthony, Dewane, Flory, Green, Nguyen, Reyna, Sheldon, Sidhu  
Absent: Bilodeau, Yoh

1. Approval of Cash Disbursements

MOTION NO. 15-29  
APPROVING CASH DISBURSEMENTS

Payment of bills for the period January 29, 2015 through February 11, 2015 in the total amount of \$13,908,092.33 is ratified and approved.

2. Approval of Minutes of Board Meeting

MOTION NO. 15-30  
APPROVING MINUTES OF BOARD MEETINGS

The minutes of the Board of Directors meeting held January 21 and January 28, 2015 are approved as presented.

3. 2013-14 Engineer's Report

MOTION NO. 15-31  
RECEIVING AND FILING 2013-2014 ENGINEER'S REPORT ON GROUNDWATER  
CONDITIONS, WATER SUPPLY AND BASIN UTILIZATION  
AND SCHEDULING PUBLIC HEARINGS.

The draft 2013-14 Engineer's Report is hereby received and filed, and public hearings are scheduled for March 18, 2015 to present the Report's findings and on April 15, 2015 to consider establishing the Replenishment Assessment, Basin Equity Assessment and Basin Production Percentage for the 2015-16 water year.

4. Concurring in Nomination to the ACWA/JPIA Executive Committee

RESOLUTION NO. 15-2-18  
CONCURRING IN NOMINATION OF FRED R. BOCKMILLER  
TO THE EXECUTIVE COMMITTEE  
OF THE ASSOCIATION OF CALIFORNIA WATER AGENCIES  
JOINT POWERS INSURANCE AUTHORITY (ACWA/JPIA)

WHEREAS, Orange County Water District (OCWD) is a member district of the Association of California Water Agencies (ACWA)/Joint Powers Insurance Authority (JPIA); and

WHEREAS, the Bylaws of the ACWA/JPIA provide that in order for a nomination to be made to ACWA/JPIA's Executive Committee, three member districts must concur with the nominating district; and

WHEREAS, another ACWA/JPIA member district, the Mesa Water District, has requested that this District concur in its nomination of its member of the ACWA/JPIA Board of Directors to the Executive Committee of the ACWA/JPIA;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby resolve as follows:

Section 1: The Board of Directors of the OCWD concurs with the nomination of Fred R. Bockmiller of Mesa Water District to the Executive Committee of the ACWA/JPIA.

Section 2: The OCWD Secretary is hereby directed to transmit a certified copy of this resolution to the ACWA/JPIA at P.O. Box 619082, Roseville, CA 95661-9082, forthwith (to be received no later than March 20, 2015 at 4:30 p.m.)

5. Slurry Seal Parking Lots and Roadways

RESOLUTION NO. 15-2-19  
AUTHORIZING AGREEMENT TO AMS PAVING COMPANY TO SLURRY SEAL PARKING  
LOTS AND ROADWAYS AT FOUNTAIN VALLEY HEADQUARTERS

RESOLVED, that an Agreement to AMS Paving Company is authorized for an amount not to exceed \$39,500 for Slurry Seal work at 18700 Ward Street, Fountain Valley; and, upon approval as to form by District General Counsel, its execution by the District officers is authorized.

6. Agreement to A2Z Construct, Inc. for Hallway Construction Project

RESOLUTION NO. 15-2-20  
AUTHORIZING AGREEMENT TO A2Z CONSTRUCT, INC. FOR HALLWAY DEMOLITION  
AND CONSTRUCTION OF WALLS AND DOORWAY

RESOLVED, that an Agreement to A2Z Construct, Inc. is authorized for an amount not to exceed \$32,600 for Hallway Demolition and Construction of Walls and Doorway; and, upon approval as to form by District General Counsel, its execution by the District officers is authorized.

7. Sponsorship of Tét Parade

MOTION NO. 15-32  
AUTHORIZING SPONSORSHIP OF TÉT PARADE

OCWD Sponsorship of a vehicle in the Little Saigon Tét Parade on February 21, 2015, in the amount of \$300 is authorized.

CONSENT CALENDAR ITEM RECOMMENDED FOR APPROVAL AT COMMUNICATIONS AND LEGISLATIVE LIAISON MEETING HELD FEBRUARY 5

8. State Legislative Update

MOTION NO. 15-33

ADOPTING POSITION OF SUPPORT IF AMENDED ON SUSTAINABLE GROUNDWATER MANAGEMENT ACT PROPOSED CLEANUP LEGISLATION SPONSORED BY SEMITROPIC WATER STORAGE DISTRICT AND SONOMA WATER AGENCY

A “Support If Amended” position on the Sustainable Groundwater Management Act Proposed Cleanup Legislation sponsored by Semitropic Water Storage District and Sonoma Water Agency

9. 2015 OCWD Legislative Platform

MOTION NO. 15-34

APPROVING 2015 OCWD LEGISLATIVE PLATFORM

WHEREAS, the OCWD Communication and Legislative Liaison Committee meeting has presented and recommended adoption of the 2015 OCWD Legislative Platform which is a summary of District goals, key issues, and policy positions developed to provide guidance to the Board President and General Manager for evaluation of proposed legislation and allow staff and the District’s legislative advocates to act in a timely fashion in between Board meetings on issues that are clearly within the guidelines;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby adopt the 2015 OCWD Legislative Platform as presented (on file at the District office).

10. OCWD Priority Project for Water Bond and other Funding

MOTION NO. 15-35

APPROVING OCWD PRIORITY PROJECTS FOR WATER BOND AND OTHER FUNDING

The OCWD Priority Projects for 2015 Water Bond and Other Funding Opportunities are hereby approved as follows:

- 1) Groundwater Replenishment System (GWRS) Final Expansion,
- 2) Mid-basin Injection Project,
- 3) North Basin Groundwater Protection Project: Contamination Cleanup; and
- 4) South Basin Groundwater Protection project: Contamination Cleanup.

CONSENT CALENDAR ITEMS RECOMMENDED FOR APPROVAL AT WATER ISSUES COMMITTEE MEETING HELD FEBRUARY 11

11. Amendment to Agreement with CH2M Hill

RESOLUTION NO. 15-2-21  
APPROVING AMENDMENT TO AGREEMENT WITH CH2M HILL TO UPDATE COMPUTER MODEL OF RECHARGE SYSTEM AND CONTRACT EXTENSION

WHEREAS, pursuant to Resolution No. 09-1-12 adopted January 21, 2009, as amended, OCWD issued Agreement No. 538 to CH2M Hill for development of a computer model of the groundwater recharge system; and

WHEREAS, the Water Issues Committee of this Board has recommended issuance of Amendment No. 3 to such Agreement, for an amount not to exceed \$24,472 for updates to the recharge facilities computer model and extending the contract to December 31, 2015;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby approve amendment No. 3 to Agreement with CH2M HILL as described herein; and, upon approval as to form by District General Counsel, its execution by the District officers is authorized.

12. Contract No. TAL-2014-1 Notice Inviting Bids

MOTION NO. 15-36  
AUTHORIZING ISSUANCE OF NOTICE INVITING BIDS FOR CONTRACT NO. TAL-2014-1, TALBERT BARRIER WEST END PIPELINE CATHODIC PROTECTION SYSTEM

Publication of a Notice Inviting Bids for Contract No. TAL-2014-1, Talbert Barrier West End Pipeline Cathodic Protection System Project, is hereby authorized.

13. Notice of Completion for Contract No. SC-2014-1, Santiago Pipeline Access Project

RESOLUTION NO. 15-2-22  
ACCEPTING COMPLETION OF CONTRACT NO. SC-2014-1, SANTIAGO PIPELINE ACCESS PROJECT, RATIFYING CHANGE ORDERS, AND AUTHORIZING FILING OF NOTICE OF COMPLETION (GCI CONSTRUCTION, INC.)

WHEREAS, the District staff has submitted its report that GCI Construction, Inc. has completed work under Contract No. SC-2014-1, Santiago Pipeline Access Project, and has recommended that the District accept completion of said work and that a Notice of Completion be filed for recordation and the balance of payment be made, pursuant to the terms and conditions of such contract; and

WHEREAS, staff has advised of issuance of Change Order No. 1 to such contract in the amount of \$637 for an additional valve and Change Order No. 2 in the amount of \$18,656 for installation of a 24" manway;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby resolve as follows:

Section 1: Issuance of Change Orders No. 1 and 2 to such Contract are hereby ratified as set forth herein.

Section 2: Work under such contract is accepted as complete and the District staff is authorized and directed to execute a Notice of Completion and record said Notice in the Office of the County Recorder.

Section 3: Upon expiration of the interim lien period, providing no liens have been filed, payment of the balance due under such contract shall be made.

14. Laboratory Renewal of Service Support Agreement

RESOLUTION NO. 15-2-23

AUTHORIZING ISSUANCE OF PURCHASE ORDER TO AGILENT TECHNOLOGIES FOR RENEWAL OF SERVICE SUPPORT AGREEMENT TO COVER GAS CHROMATOGRAPHS (GC) AND GAS CHROMATOGRAPHS/MASS SPECTROMETERS (GC/MS)

RESOLVED, that issuance of a Purchase Order is authorized to Agilent Technologies in the amount of \$100,483 for a full Support Service Agreement, with prepayment option commencing March 21, 2015; to cover specified analytical systems used within the laboratory.

15. Agreements to Habitat West and Tropical Plaza Nursery

RESOLUTION NO. 15-2-24

APPROVING AGREEMENTS TO HABITAT WEST AND TROPICAL PLAZA NURSERY FOR MAINTENANCE SERVICES ON OCWD RESTORATION SITES IN ORANGE COUNTY

RESOLVED, that issuance of Agreements to Habitat West, Inc. and Tropical Plaza Nursery Inc. are authorized for a total amount not to exceed \$75,000 per year, for a three-year period, to provide maintenance services on habitat restoration sites in Orange County; and, upon approval as to form by District General Counsel, their execution by the District officers is authorized.

CONSENT CALENDAR ITEMS RECOMMENDED FOR APPROVAL AT ADMINISTRATION AND FINANCE ISSUES COMMITTEE MEETING HELD FEBRUARY 12

16. Monthly Cash Control Report

MOTION NO. 15-37  
MONTHLY CASH CONTROL REPORT

The Summary Cash and Cash Equivalents Control Report dated January 31, 2015 is hereby received and filed.

17. Easement for Underground Utilities along Miraloma Ave. and Right of Entry for City of Anaheim, AT&T and Time Warner

---

RESOLUTION NO. 15-2-25  
APPROVING EASEMENTS FOR UNDERGROUND UTILITIES ALONG  
MIRALOMA AVENUE TO CITY OF ANAHEIM AND RIGHT OF ENTRY FOR THE CITY OF  
ANAHEIM, AT&T AND TIME WARNER

WHEREAS, the District staff has advised that the City of Anaheim (City) is undergrounding electrical and telecommunication utilities along Miraloma Avenue, Anaheim, to improve and enhance the City's electric system and, to provide continued service to District facilities, and that the City has requested easements to install and maintain the underground and above ground facilities on District property at Kraemer Basin, Miraloma Basin, and Anaheim Lake; and

WHEREAS, such Easements contain Right of Entry agreements to the City, AT&T, and Time Warner to access District property to construct and install the underground facilities; and

WHEREAS, the Water Issues Committee of this Board has reviewed and recommended approval of such Easements and Right of Entry agreements with the City as outlined herein;

NOW, THEREFORE, the Board of Director of the Orange County Water District does hereby resolve approve the aforementioned Easement Deeds and Right of Entry Agreements with the City of Anaheim as herein described; and, upon approval as to form by District General Counsel, their execution by the District officers is authorized.

18. Agreement to Utility Cost Management LLC for Utility Bill Auditing Services

RESOLUTION NO. 15-2-26  
APPROVING AGREEMENT TO UTILITY COST MANAGEMENT LLC  
FOR UTILITY BILL AUDITING SERVICES

RESOLVED, that an Agreement to Utility Cost Management LLC is authorized for Utility Bill Auditing Services for a three-year period, for a fee of 42% of refunds/credits identified and received by the District; and upon approval as to form by District General Counsel, execution of such Agreement by the District officers is authorized.



- 19. RFP for Programming Services for Maximo Computerized Maintenance Management System Upgrade
- 

MOTION NO. 15-38  
 AUTHORIZING ISSUANCE OF RFP FOR PROGRAMMING SERVICES FOR MAXIMO  
 COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM UPGRADE

Issuance of a Request for Proposals for Programming Services for the Maximo Computerized Maintenance Management System Upgrade is hereby authorized.

- 20. Amendment to Agreement with Ceridian

RESOLUTION NO. 15-2-27  
 APPROVING AMENDMENT TO AGREEMENT WITH CERIDIAN FOR PAYROLL  
 AND HUMAN RESOURCES SYSTEMS

WHEREAS, OCWD uses Ceridian Payroll Services to provide human resources and payroll computer applications; and staff has recommended continuing with this service for an additional five years due to the satisfactory level of performance delivered in the past; and

WHEREAS, staff has advised that Ceridian is retiring its legacy HR/payroll module of the package and replacing it with a new design that provides a fully integrated solution of all of the Ceridian modules that staff utilizes for the HR/Payroll processes;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby resolve as follows:

Section 1: Extension of the existing Agreement with Ceridian is authorized until implementation of the new system at a cost not to exceed \$65,800 commencing March 2015 through June 2016.

Section 2: Execution by staff of an Amendment to the Agreement with Ceridian for an amount not to exceed \$307,662 (five-year costs) for support for payroll, timekeeping and related human resources functions, for a period of five years effective upon implementation of the project which includes a \$25,900 one-time set up charge for the newly designed Human Resources/payroll application.

- 21. Agreement to West Coast Mobile Home Improvement for Exterior Repairs to FHQ Trailers

RESOLUTION NO. 15-2-28  
 APPROVING AGREEMENT TO WEST COAST MOBILE HOME IMPROVEMENT FOR  
 EXTERIOR REPAIRS TO THE FIELD RESEARCH LABORATORY TRAILERS

RESOLVED, issuance of Agreement to West Coast Mobile Home Improvement is authorized in the amount of \$31,484 for repair services for Field Research Laboratory trailers; and, upon approval as to form by District General Counsel, its execution by the District officers is authorized.

22. Repair of Burris Pump Station Pump P-3

MOTION NO. 15-39  
RATIFYING PAYMENT TO REED ELECTRIC & FIELD SERVICES FOR REPAIR  
OF BURRIS PUMP STATION PUMP P-3

Payment in the amount of \$75,353 is hereby ratified to Reed Electric & Field Services for the removal, rebuilding, and reinstallation of the electric motor in the Burris Pump Station Pump P-3.

23. Investment Portfolio Holdings Report

MOTION NO. 15-40  
INVESTMENT PORTFOLIO HOLDINGS REPORT

The Investment Portfolio Holdings Report dated January 31, 2015 is hereby received and filed.

24. Budget to Actual Report

MOTION NO. 15-41  
RECEIVING AND FILING BUDGET TO ACTUAL REPORT FOR SECOND  
QUARTER FY 2014-15

The Budget to Actual report for FY2014-15 Second Quarter ending December 31, 2014 is hereby received and filed.

25. Ratio Analysis

MOTION NO. 15-42  
RECEIVING AND FILING RATIO ANALYSIS FOR SECOND QUARTER FY 2014-2015

The Ratio Analysis Report for FY2014-15 Second Quarter ending December 31, 2014 is hereby received and filed.

Director Bilodeau arrived at 5:50 p.m. at this point in tonight's meeting.

MATTER FOR CONSIDERATION

26. Proposed Poseidon Resources City of Huntington Beach Ocean Desalination Project  
Citizens Advisory Committee

Executive Director John Kennedy recalled that the Board previously established an Ocean Desalination Citizens Advisory Committee (ODCAC), noting that the members selected by the Board have been provided in tonight's packet. He stated the Committee would assist the Board in reviewing a potential term sheet for the proposed Poseidon Resources Huntington Beach Ocean Desalination project. Mr. Kennedy proposed that the general role of the ODCAC would be to allow for a full discussion and debate of issues regarding the proposed project in a relatively informal setting that would provide information to assist the OCWD Board in evaluating a potential term sheet for the

proposed project. Mr. Kennedy suggested that under the General Manager's signing authority, professional facilitator Paul Brown of Paul Redvers Brown, Inc. could be hired to facilitate the ODCAC meetings. He further suggested the Board adopt the recommended roles, responsibilities and administrative procedures for the ODCAC.

R4RD representative Milt Dardis questioned whether the ODCAC would be allowed to prepare a rebuttal to the Clean Energy report or hold off-site meetings, and how the Board would enforce the proposed rule against ODCAC members having a conflict of interest with the proposed project.

The Board discussed the roles and responsibilities of the ODCAC and determined that this issue needed more discussion at a future Board meeting. Discussion also took place regarding potential conflict of interests by ODCAC members. General Counsel Kuperberg responded that there could be a property interest trigger for conflict of interest under the Political Reform Act, and traditionally a conflict is presumed if ownership or long-term tenancy is within 500 feet of the boundary line of the project. He stated he would research the laws and report back to the Board. The Board discussed the potential for other conflicts of interests on the part of those selected to serve on the ODCAC. Director Sidhu suggested that staff solicit proposals for a facilitator. Discussion of this item was then deferred to the March 18 Board meeting.

MOTION NO. 15-43  
DEFERRING DISCUSSION OF THE OCEAN DESALINATION  
PROJECT CITIZENS' ADVISORY COMMITTEE

Upon motion by Director Anthony, seconded by Director Sidhu and carried [9-0], discussion of the proposed Poseidon Resources City of Huntington Beach Ocean Desalination Project citizens' Advisory committee is hereby deferred to the March 18 Board meeting.

Ayes: Anthony, Bilodeau, Dewane, Flory, Green, Nguyen, Reyna, Sheldon, Sidhu

Absent: Yoh

27. Digital Audio Recording of Board Meetings

Director of Information Services Bruce Dosier stated the District has meeting recordings for part of 2012, and most of 2013 and 2014. The Board requested that the digital audio recordings of Board meetings be uploaded to the OCWD website after each meeting and kept on the website for as long as practicable. Surf City Voice representative John Earl stated that the notice placed on the website regarding the availability of the audio recordings is difficult to locate. The following action was taken.

MOTION NO. 15-44  
DIRECTING STAFF TO UPLOAD DIGITAL AUDIO RECORDING OF  
BOARD MEETINGS ON OCWD WEBSITE

Upon motion by Director Flory, seconded by Director Anthony and carried [9-0], the Board directed staff to upload the digital audio recordings of Board/Committee meetings after each meeting (and going back two years) to the OCWD website, and leave them on the website for as long as practicable.

Ayes: Anthony, Bilodeau, Dewane, Flory, Green, Nguyen, Reyna, Sheldon, Sidhu

Absent: Yoh

## INFORMATIONAL ITEMS

28. North Basin Groundwater Contamination – Update on National Contingency Plan Activities

General Manager Markus recalled the OCWD Board adopted an updated Groundwater Quality Protection Policy in August 2014 which included following the National Contingency Plan (NCP) process. He further recalled that Kennedy/Jenks was engaged by the District to provide NCP services to address groundwater contamination in the North Basin area which includes investigation and evaluation of remedial alternatives.

Kennedy/Jenks representative Meredith Durant gave an overview of the North Basin groundwater contamination plume with volatile organic compounds (VOC's) that exceed drinking water standards, noting the contamination has been identified in both the shallow and principal aquifers resulting from solvents released as far back as the 1960's and 70's. She explained that estimating the precise travel time of the VOC's is difficult even with 70 monitoring wells. Ms. Durant presented a strategic approach to remediate the contamination as follows: source control to stop the ongoing release of VOC's, an interim remedy to contain portions of the plume where concentrations are more than five times the drinking water standard, and final remediation to address contamination outside of interim remedy. She presented a flow chart of the NCP process, noting that the remedial investigation and development of a feasibility study have already begun. Ms. Durant noted that the proposed remedial action plan is a very public process and includes a community involvement plan, fact sheets, public meetings and public notice. She anticipated completion of the NCP process to arrive at a proposed interim remedial action by March 2016.

Director Flory stated that the Board previously approved language of a proposed MOU with several state agencies and asked where these agencies fit into the process. Mr. Markus explained that the MOU would be between OCWD, the Department of Toxic Substances, and the Regional Water Quality Control Board and that these agencies are currently reviewing the MOU. He recalled that part of the proposed MOU includes following the NCP process, and that one of the aforementioned agencies would act as the lead agency. Mr. Markus stated that attorney Scott Sommer was engaged to coordinate with the regulatory agencies and find one to take the lead on the North Basin contamination. He stated that the District is nine months into the process and is fairly close to finding a regulatory agency. Director Dewane suggested the Board might wish to waive its attorney/client privilege to allow Board members in Fullerton and Anaheim to discuss the contamination issues with their respective City Councils. General Counsel Kuperberg was directed to clarify issues in this regard and advise the Board.

Director Sidhu expressed concern that the regulatory agencies could take over the project and declare it a Superfund site. Mr. Sommer stated that it is not the practice of the EPA to establish Superfund sites without the support of the Governor and the agency involved (OCWD). Director Dewane noted there is nothing that would prohibit a City from going to the EPA with a competing request. Director Flory asked whether once the NCP process ends, it ends up with a National Priority Listing (NPL). Mr. Sommer responded that is not the case. Director Dewane asked if the mere presence of a regulated chemical in the OCWD service area creates liability for the discharger, even if it's below the MCL level. Mr. Sommer responded that it is a complex issue, and that trace amounts below the MCL would mean liability but there may not be damage. He stated the real problem comes in when the MCL levels are reached and exceeded and the water may not legally be served. Mr. Sommer stated it's about a 2 1/2 to 3 year process to get to the NPL. He stated the EPA would oversee the

NCP process to ensure that OCWD is following the NCP process and OCWD would perhaps have to pay EPA for staff time. He suggested a Superfund alternative wherein the PRP would consent to an agreement with the EPA and, as long as the PRP stayed in compliance with that agreement, there would be no need for an NPL listing. Mr. Sommer stated that it is not accurate to say that EPA involvement necessarily results in NPL listing. Rather, he stated it would be very unconventional for the State or Federal Government not to look over OCWD's NCP process and the EPA has agreed to do this.

OCBC representative Brian Starr stated the OCBC vehemently opposes any action by OCWD to establish a Superfund Designation, noting it would destroy public confidence that the drinking water is safe and damage property values. He stated that the proposed MOU the Board adopted was a shift to a collaborative effort which OCWD has failed to follow. He further stated that OCWD has been meeting secretly with the EPA and requested that this activity stop. He urged the Board to take back control of the site and send letters to the EPA stating that OCWD opposes a Superfund designation, and to direct staff to begin a collaborative approach.

Director Sheldon noted that OCWD does not want a Superfund site, but it does want to follow the NCP process. He asked OCBC President and CEO Lucy Dunn about her testimony before the Senate Environmental Quality Committee on SB658 in which she supported the NCP process for recovery of contamination cleanup costs. Ms. Dunn stressed that the policy should be collaborative and urged the Board to do the right thing. She stated that no one in the OCBC was aware that meetings with the EPA were taking place and urged community involvement.

## INFORMATIONAL ITEMS

### MOTION NO. 15-45 RECEIVING AND FILING INFORMATIONAL ITEMS

Upon motion by Director Bilodeau, seconded by Director Anthony and carried, [9-0], the Board received and filed the remainder of the Informational Items (Nos. 29 - 33) on tonight's Agenda: Water Resources Report, Santa Ana River Conservancy Advisory Group, Santa Ana Watershed Project Authority Activities, Groundwater Producer Meeting Minutes – February 11, 2015, Committee/Conference/Meeting Reports

#### 34. VERBAL REPORTS

There were no verbal reports.

## ADJOURNMENT TO CLOSED SESSION

General Counsel Kuperberg advised there was no need to discuss the Western Riverside County Regional Wastewater Authority Wastewater Change Petition in Closed Session tonight, and the Board adjourned to Closed Session at 8:10 p.m. as follows:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION –  
[Government Code Section 54956.9(a)] – Two Cases  
*OCWD v. Northrop Corporation, et al* (North Basin VOC Litigation) Superior Court Case  
No. 04CC00715  
*OCWD v. Sabic Innovative plastics, LLC, et al* (South Basin Litigation) Superior Court Case  
No. 03CC 00078246

RECONVENE IN OPEN SESSION

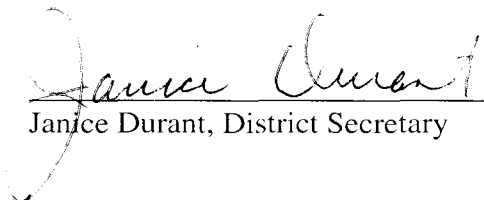
The Board reconvened in Open Session at 9:08 p.m. whereupon General Counsel Joel Kuperberg stated that the Board, by a vote of [6-2], took the following action in Closed Session.

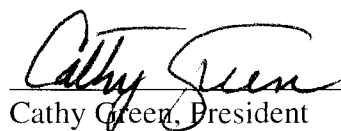
RESOLUTION NO. CS-15-2-1  
DIRECTING STAFF AND ITS CONSULTANTS TO NEGOTIATE WITH THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AN AGREEMENT BY WHICH THE EPA WOULD BE THE OVERSIGHT ENTITY FOR THE NATIONAL CONTINGENCY PLAN (NCP) PROCESS FOR THE NORTH BASIN GROUNDWATER CONTAMINATION CLEANUP PROJECT

Ayes: Anthony, Bilodeau, Flory, Green, Reyna, Sheldon  
Noes: Dewane, Sidhu  
Absent: Nguyen, Yoh

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 9:08 p.m.

  
\_\_\_\_\_  
Janice Durant, District Secretary

  
\_\_\_\_\_  
Cathy Green, President